Remarks

This is a Preliminary Amendment being submitted together with a Request for Continued Prosecution. Claims 1-15 and 16-31 are pending. Claim 1 has been amended and new claims 22-31 have been added.

In an Advisory Action mailed on April 7, 2004, the Examiner indicated that Applicant's Amendment After Final has been entered and provided comments on the claims, as amended. Applicant appreciatively acknowledges that entry and comments.

Preliminary Remarks Concerning State of Case

Applicant notes an error in the Amendment After Final, which is believed to have not posed an issue to the Examiner. Claim 1 was amended in the Amendment After Final to render moot the Section 112 rejection and restore original claim scope in that regard. However, claim 1 was erroneously identified as having been "previously presented" when, in fact, it should have been identified as "currently amended." The Examiner noticed the amendments and responded to that change. Applicants make this statement so that the record is clear in this regard.

Comments On Present Amendment

Upon entry of the amendments herein and in view of the remarks below, Applicant submits that the rejection over Nicosia et al. shall have been overcome.

Applicant has amended the specification to update the citation to Application Serial No. 09/885,216, filed June 20, 2001, entitled "Blood-Sucking Insect Control Station," which is now U.S. Patent No. 6,568,123, issued May 27, 2003. Applicant has also amended the specification to more particularly describe that the pressure waves radiated by the claimed substrate are sound waves and to describe the frequency range of the radiated waves. Support for these amendments is from U.S. Patent No. 6,568,123: col. 5, line 60 - col. 6, line 7; col. 14, lines 42-54; and col. 15, lines 1-39, which patent had previously been incorporated by reference, and has now been made expressly part of the text of the present application.

Applicant has amended claim 1 to recite more particularly that the radiated pressure waves are "sound waves ... which the insect can detect and perceive as a heartbeat." Thus, the claimed substrate has a construction that, in addition to satisfying a prescribed criterion between thickness and the flexural modulus, radiates sound waves that can be perceived by the target insect as a heartbeat. In contrast, as noted in Applicant's Amendment After Final, The Nicosia et al. device operates under a different principle, instead generating pressure waves across a deformable surface that are incapable of producing any meaningful, perceptible sound waves, but which instead generate a "positional signature." Applicant respectfully invites the Examiner to review the many excerpted portions of Nicosia that appear in Applicant's Amendment After Final which establish the significance of the structural difference between claim 1 and the positional-signature generating substrate of Nicosia et al.

Applicant presents new claims to more completely cover certain aspects of its invention. More particularly, new claims 22-31 recite particular frequency ranges of sound waves that have been determined to be of interest for insect control. With regard to claims 22-29, these claims recite a frequency or range that is non-overlapping with Nicosia et al, and Applicant notes that each of these claims concerns the sound waves radiatable by the structure of the substrate, and that Nicosia et al. does radiate sound waves regardless of frequency or frequency range, as acknowledged by Nicosia et al. in at least some of the aforementioned excerpts.

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Respectfully submitted,

By

David Leason
Registration No.: 36,195
DARBY & DARBY P.C.
P.O. Box 5257
New York, New York 10150-5257
(212) 527-7700
(212) 753-6237 (Fax)
Attorneys/Agents For Applicant